

*Norton*

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT

Civil Action No.: SUCV2009-01808-A

KIMBERLY NORTON and	)
EDWARD NORTON,	)
Plaintiffs	)
	)
v.	)
	)
STEVEN J. RALSTON, M.D. and	)
JANE DOE, R.N.,	)
Defendants	)

*NOTICE SENT  
2/17/10  
KD  
WJD  
NST*

**MOTION OF THE DEFENDANTS,  
STEVEN J. RALSTON, M.D. AND JANE DOE, R.N.,  
TO DISMISS PLAINTIFFS' COMPLAINT AND FOR ENTRY OF  
FINAL JUDGMENT FOR PLAINTIFFS' FAILURE TO POST A BOND  
(Pursuant to M.G.L. c.231, §60B)**

NOW COME the Defendants, Steven J. Ralston, M.D. and Jane Doe, R.N. (hereinafter collectively "Defendants"), and respectfully move that this Honorable Court dismiss the instant action against the Defendants pursuant to M.G.L. c. 231, §60B and to enter final judgment with prejudice in the Defendants' favor pursuant to Mass. R. Civ. P. 58(a)(2). In support of their Motion, the Defendants state as follows:

1. This is an action for malpractice, error or mistake, within the terms of M.G.L. c. 231, §60B. Pursuant to that statute, a medical malpractice tribunal as to the Defendants was convened on November 30, 2009.

2. On November 30, 2009, the tribunal found in favor of the Defendants. Copies of the tribunal's findings are attached hereto as Exhibit A. The decision of the tribunal was docketed on December 2, 2009. Accordingly, pursuant to M.G.L. c. 231, §60B, the Plaintiff was

*2/10/10 motion allowed for the reason submitted, there being no written opposition timely filed. Tray, J.*

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required to post a bond within 30 days of the tribunal's finding. The Plaintiffs have failed to post a bond to pursue this action against the Defendants.

3. M.G.L. c.231, §60B provides that if a tribunal finds in favor of the defendant, "the plaintiff may pursue the claim through the usual judicial process only upon filing bond in the amount of six thousand dollars . . . ." "If said bond is not posted within thirty days of the tribunal's finding the action shall be dismissed." Id.

4. The Plaintiff was required to post a bond no later than January 4, 2010, 30 days after the tribunal's finding in favor of the Defendants. More than 30 days have passed following the November 30, 2009 medical malpractice tribunal hearing and finding and docketing of filing.

5. Accordingly, since the Plaintiff has failed to post a bond within the statutory period of time, the action against the Defendants, Steven J. Ralston, M.D. and Jane Doe, R.N., must be dismissed.

WHEREFORE, the Defendants, Steven J. Ralston, M.D. and Jane Doe, R.N., respectfully request that this Honorable Court move to dismiss the above-entitled matter and that final judgment with prejudice be entered in favor of the Defendants.

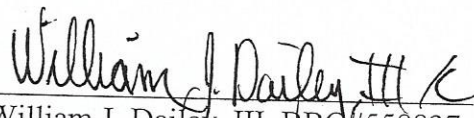
Respectfully Submitted,  
STEVEN J. RALSTON, M.D., and  
JANE DOE, R.N.,  
The Defendants, By Their Attorneys,

  
\_\_\_\_\_  
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CERTIFICATE OF SERVICE

I, William J. Dailey, III, Esq., hereby certify that on January 13, 2010, I served a true copy of the foregoing document, upon the following parties of record, by first class mail, postage prepaid, to:

Kevin Donius, Esq.  
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